

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1151 be amended to read as follows:

1       Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:

3       "SECTION 1. IC 3-6-8-2.5 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) A watcher  
5 appointed under this chapter must **satisfy both of the following:**

6       **(1) A watcher must** be a registered voter of the county.

7       **(2) A watcher may not be related to a candidate in a manner**  
8 **that would disqualify the watcher to serve as a precinct**  
9 **election officer under IC 3-6-6-7(a)(4).**

10       SECTION 2. IC 3-7-38.1-7, AS AMENDED BY P.L.38-1999,  
11 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 UPON PASSAGE]: Sec. 7. (a) A county voter registration office shall  
13 cancel the registration of a voter who is described by both of the  
14 following:

15       (1) The voter is described in section 4(a)(5)(C) of this chapter.

16       (2) The voter has not voted (or appeared to vote or to correct the  
17 registration record stating the voter's address) in an election during  
18 the period:

19       (A) beginning on the date of the notice sent under section  
20 4(a)(3) of this chapter; and

21       (B) ending on the day after the date of the second general  
22 election that occurs after the date of the notice sent under  
23 section 4(a)(3) of this chapter.

(b) **An individual who appears to vote after the individual's registration at an address is placed on inactive status under this chapter shall affirm under IC 3-10-1 or IC 3-11-8 that the individual currently resides at that address before proceeding to vote as a resident of that address.**

(c) At the expiration of the period ending thirty (30) days after the second general election described in subsection (a)(2)(B), the county voter registration office shall cancel the registration of a voter described by this section.

SECTION 3. IC 3-7-38.2-13, AS AMENDED BY P.L.38-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county voter registration office has determined under this chapter that a voter's residence may have changed, the election division shall send a notice to the voter that sets forth substantially the following statements as provided in 42 U.S.C. 1973gg-6(d)(2):

(1) If the voter did not change the voter's residence or changed the residence but remained in the same county where the voter was listed on the voter registration record, the voter must return the card enclosed with the notice in person to the county voter registration office not later than twenty-nine (29) days before the election or by regular United States mail:

(A) with a postmark not later than twenty-nine (29) days before the election; or

(B) if a postmark is missing or illegible, to the county voter registration office not later than twenty-one (21) days before the election.

(2) If the card is not returned under subdivision (1), the voter ~~may~~ **be required to must** affirm or confirm the voter's address before the voter is permitted to vote in an election during the period:

(A) beginning on the date of the notice; and

(B) ending on the day after the date of the second general election scheduled to occur after the date of the notice.

(3) If the voter does not vote in an election described in subdivision (2), the voter's name will be removed from the voter registration list.

(4) If the voter changed residence to a place outside the county in which the voter is included on the voter registration list, information concerning how the voter can continue to be eligible to vote in the county where the voter currently resides.

SECTION 4. IC 3-10-1-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.2. (a) Before a voter proceeds to vote in a primary election, the poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to**

1 provide a current and valid photo identification issued by the  
 2 government of the United States, the state of Indiana, or an  
 3 Indiana political subdivision. Except as provided in subsection (b),  
 4 the voter must produce the identification before being permitted  
 5 to vote. If the voter is unable or declines to produce the  
 6 identification, the board shall provide a provisional ballot to the  
 7 voter under IC 3-11.7 after the poll clerk, assistant poll clerk, or  
 8 precinct election board member executes a challenge affidavit in  
 9 accordance with IC 3-11.7.

10 (b) A voter is not required to produce identification under  
 11 subsection (a) if the voter executes an affidavit, in the form  
 12 prescribed by the commission, affirming under the penalties for  
 13 perjury that either of the following applies to the voter:

14 (1) The voter is indigent and unable to obtain identification  
 15 without the payment of a fee.

16 (2) The voter has a religious objection to being  
 17 photographed."

18 Page 3, between lines 23 and 24, begin a new paragraph and insert:  
 19 "SECTION 7. IC 3-11-4-3, AS AMENDED BY P.L.1-2003,  
 20 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b) and  
 22 section 6 of this chapter, an application for an absentee ballot must be  
 23 received by the circuit court clerk (or, in a county subject to  
 24 IC 3-6-5.2, the director of the board of elections and registration) not  
 25 earlier than ninety (90) days before election day nor later than the  
 26 following:

27 ~~(1) Noon on election day if the voter registers to vote under~~  
 28 ~~IC 3-7-36-14.~~

29 ~~(2) Noon on the day before election day if the voter completes the~~  
 30 ~~application in the office of the circuit court clerk.~~

31 ~~(3) Noon~~ (1) 10 p.m. on the fifth day before election day if  
 32 (A) the application is a ~~mailed or~~ hand delivered application  
 33 from a confined voter or voter caring for a confined person;  
 34 and  
 35 (B) the applicant requests that the absentee ballots be delivered  
 36 to the applicant by an absentee voter board; or was  
 37 transmitted by fax; or

38 ~~(4) Midnight~~ (2) 10 p.m. on the eighth day before election day if  
 39 the application

40 (A) is a mailed application. or

41 (B) was transmitted by fax;

42 from other voters.

43 (b) This subsection applies to an absentee ballot application from a  
 44 confined voter or voter caring for a confined person that is sent by fax,

1 mailed, or hand delivered to the circuit court clerk of a county having  
 2 a consolidated city. An application subject to this subsection that is sent  
 3 by fax or hand delivered must be received by the circuit court clerk not  
 4 earlier than ninety (90) days before election day nor later than 10 p.m.  
 5 on the fifth day before election day. An application subject to this  
 6 subsection that is mailed must be received by the circuit court clerk not  
 7 earlier than ninety (90) days before election day and not later than 10  
 8 p.m. on the eighth day before election day."

9 Page 8, after line 42, begin a new paragraph and insert:

10 "SECTION 13. IC 3-11-8-25, AS AMENDED BY P.L.209-2003,  
 11 SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2004]: Sec. 25. (a) After a voter has passed the challengers or  
 13 has been sworn in, the voter shall be admitted to the polls. Upon  
 14 entering the polls, the voter shall announce the voter's name to the poll  
 15 clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a  
 16 member of the precinct election board shall require the voter to write  
 17 the following on the poll list:

18 (1) The voter's name.

19 (2) The voter's current residence address.

20 (b) The poll clerk, an assistant poll clerk, or a member of the  
 21 precinct election board shall:

22 (1) ask the voter to provide the voter's voter identification number;

23 (2) tell the voter the number the voter may use as a voter  
 24 identification number; and

25 (3) explain to the voter that the voter is not required to provide a  
 26 voter identification number at the polls.

27 (c) **The poll clerk, an assistant poll clerk, or a member of the**  
 28 **precinct election board shall ask the voter to provide a current**  
 29 **and valid photo identification issued by the government of the**  
 30 **United States, the state of Indiana, or an Indiana political**  
 31 **subdivision. Except as provided in subsection (k), the voter must**  
 32 **produce the identification before being permitted to vote. If the**  
 33 **voter is unable or declines to produce the identification, the board**  
 34 **shall provide a provisional ballot to the voter under IC 3-11.7 after**  
 35 **the poll clerk, assistant poll clerk, or precinct election board**  
 36 **member executes a challenge affidavit in accordance with**  
 37 **IC 3-11.7.**

38 (d) This subsection applies after December 31, 2003. The poll clerk  
 39 or assistant poll clerk shall examine the list provided under IC 3-7-29-1  
 40 or IC 3-11-3-18 to determine if the county election board has indicated  
 41 that the voter is required to provide additional personal identification  
 42 under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If  
 43 the list (or a certification concerning absentee voters under  
 44 IC 3-11-10-12) indicates that the voter is required to present this  
 45 identification before voting in person, the poll clerk shall advise the

1 voter that the voter must present a piece of identification described in  
2 subsection ~~(d)~~ (e) to the poll clerk.

3 ~~(d)~~ (e) This subsection applies after December 31, 2003. As  
4 required by 42 U.S.C. 15483, a voter described by IC 3-7-33-4.5 who  
5 has not complied with IC 3-7-33-4.5 before appearing at the polls on  
6 election day must present one (1) of the following documents to the poll  
7 clerk:

- 8 (1) a current and valid photo identification; or
- 9 (2) a current utility bill, bank statement, government check,  
10 paycheck, or government document that shows the name and  
11 address of the voter.

12 ~~(e)~~ (f) This subsection applies after December 31, 2003. If a voter  
13 presents a document under subsection ~~(d)~~; (e), the poll clerk shall add  
14 a notation to the list indicating the type of document presented by the  
15 voter. The election division shall prescribe a standardized coding system  
16 to classify documents presented under this subsection for entry into the  
17 county voter registration system.

18 ~~(f)~~ (g) This subsection applies after December 31, 2003. If a voter  
19 required to present documentation under subsection ~~(d)~~ (e) is unable to  
20 present the documentation to the poll clerk while present in the polls,  
21 the poll clerk shall notify the precinct election board. The board shall  
22 provide a provisional ballot to the voter under IC 3-11.7-2.

23 ~~(g)~~ (h) This subsection applies after December 31, 2003. The  
24 precinct election board shall advise the voter that the voter may file a  
25 copy of the documentation with the county voter registration office to  
26 permit the provisional ballot to be counted under IC 3-11.7.

27 ~~(h)~~ (i) This subsection does not apply to a precinct in a county with  
28 a computerized registration system whose inspector was:

- 29 (1) furnished with a list certified under IC 3-7-29; and
- 30 (2) not furnished with a certified photocopy of the signature on  
31 the affidavit of registration of each voter of the precinct for the  
32 comparison of signatures under this section.

33 In case of doubt concerning a voter's identity, the precinct election  
34 board shall compare the voter's signature with the signature on the  
35 affidavit of registration or any certified copy of the signature provided  
36 under IC 3-7-29. If the board determines that the voter's signature is  
37 authentic, the voter may then vote. If either poll clerk doubts the voter's  
38 identity following comparison of the signatures the poll clerk shall  
39 challenge the voter in the manner prescribed by section 21 of this  
40 chapter.

41 ~~(i)~~ (j) If, in a precinct governed by subsection ~~(h)~~; (i):

- 42 (1) the poll clerk does not execute a challenger's affidavit; or
- 43 (2) the voter executes a challenged voter's affidavit under section  
44 22 of this chapter or had executed the affidavit before signing the  
45 poll list;

1 the voter may then vote.

2 **(k) A voter is not required to produce identification under**  
 3 **subsection (c) if the voter executes an affidavit, in the form**  
 4 **prescribed by the commission, affirming under the penalties for**  
 5 **perjury that either of the following applies to the voter:**

6 **(1) The voter is indigent and unable to obtain identification**  
 7 **without the payment of a fee.**

8 **(2) The voter has a religious objection to being photographed.**

9 ~~(l)~~ **(l) This section expires January 1, 2006.**

10 SECTION 14. IC 3-11-8-25.1, AS ADDED BY P.L.209-2003,  
 11 SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2004]: Sec. 25.1. (a) This section applies after December 31,  
 13 2005.

14 (b) After a voter has passed the challengers or has been sworn in,  
 15 the voter shall be admitted to the polls. Upon entering the polls, the  
 16 voter shall announce the voter's name to the poll clerks or assistant poll  
 17 clerks. A poll clerk, an assistant poll clerk, or a member of the precinct  
 18 election board shall require the voter to write the following on the poll  
 19 list:

20 (1) The voter's name.

21 (2) The voter's current residence address.

22 (c) The poll clerk, an assistant poll clerk, or a member of the  
 23 precinct election board shall:

24 (1) ask the voter to provide or update the voter's voter  
 25 identification number;

26 (2) tell the voter the number the voter may use as a voter  
 27 identification number; and

28 (3) explain to the voter that the voter is not required to provide or  
 29 update a voter identification number at the polls.

30 **(d) The poll clerk, an assistant poll clerk, or a member of the**  
 31 **precinct election board shall ask the voter to provide a current**  
 32 **and valid photo identification issued by the government of the**  
 33 **United States, the state of Indiana, or an Indiana political**  
 34 **subdivision. Except as provided in subsection (e), the voter must**  
 35 **produce the identification before being permitted to vote. If the**  
 36 **voter is unable or declines to produce the identification, the board**  
 37 **shall provide a provisional ballot to the voter under IC 3-11.7 after**  
 38 **the poll clerk, assistant poll clerk, or precinct election board**  
 39 **member executes a challenge affidavit in accordance with**  
 40 **IC 3-11.7.**

41 **(e) A voter is not required to produce identification under**  
 42 **subsection (d) if the voter executes an affidavit, in the form**  
 43 **prescribed by the commission, affirming under the penalties for**  
 44 **perjury that either of the following applies to the voter:**

**(1) The voter is indigent and unable to obtain identification without the payment of a fee.**

**(2) The voter has a religious objection to being photographed.**

~~(d)~~ **(f)** In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

~~(e)~~ **(g)** If, in a precinct governed by subsection (c):

(1) the poll clerk does not execute a challenger's affidavit; or

(2) the voter executes a challenged voter's affidavit under section 22 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote."

Page 11, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 17. IC 3-12-6-1.5, AS AMENDED BY P.L.40-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. A candidate for election to precinct committeeman or state convention delegate is **not** entitled to have the votes cast for that office recounted under this chapter. The political party of the candidate, in accordance with any applicable party rules, determines the winner of an election to a political party office.

SECTION 18. IC 3-12-6-21.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21.7. (a) **The recount commission shall count the ballots in each precinct separately.**

**(b) Unless the recount commission makes a finding under subsection**

~~(b); (c) and issues an order under subsection (d),~~ the recount commission shall

~~(1) count ballots in accordance with this article. and~~

~~(2) not order that all ballots in a precinct not be counted.~~

~~(b)~~ **(c)** If

~~(1) a party to the recount presents evidence of fraud, tampering, or misconduct affecting that occurred in a precinct, the commission may make a finding that the fraud, tampering, or misconduct affected the integrity of the ballot balloting within a that precinct and~~

~~(2) to the extent that the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission is unable to determine the approximate number of votes that each candidate received in that precinct.~~

1        **(d) If the commission makes a finding under subsection (c), the**  
 2        commission may order that none of the ballots from that precinct be  
 3        counted.

4        **(e) If the commission adopts an order permitted by subsection**  
 5        **(d), the commission shall determine the number of votes received**  
 6        **by each candidate without including any votes cast in the affected**  
 7        **precinct."**

8        Page 18, between lines 36 and 37, begin a new paragraph and insert:  
 9        "SECTION 39. IC 33-16-4-1, AS AMENDED BY P.L.176-1999,  
 10        SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11        UPON PASSAGE]: Sec. 1. The following are authorized to subscribe  
 12        and administer oaths and take acknowledgments of all documents  
 13        whatsoever, pertaining to all matters where an oath is required:

- 14        (1) Notaries public.
- 15        (2) Justices and judges of courts, in their respective jurisdictions.
- 16        (3) The secretary of state of Indiana.
- 17        (4) The clerk of the supreme court.
- 18        (5) Mayors, clerks, clerk-treasurers of towns and cities, and
- 19        township trustees, in their respective towns, cities, and townships.
- 20        (6) Clerks of circuit courts and master commissioners, in their
- 21        respective counties.
- 22        (7) Judges of United States district courts of Indiana, in their
- 23        respective jurisdictions.
- 24        (8) United States commissioners appointed for any United States
- 25        district court of Indiana, in their respective jurisdictions.
- 26        **(9) The following, for any purpose authorized under IC 3:**
  - 27        **(A) A precinct election officer (as defined in IC 3-5-2-40.1).**
  - 28        **and**
  - 29        **(B) An absentee voter board member appointed under**
  - 30        **IC 3-11-10. ~~for any purpose authorized under IC 3-~~**
  - 31        **(C) The director, the assistant director, or an employee of**
  - 32        **the board of elections and registration established by**
  - 33        **IC 3-6-5.2-3.**
- 34        (10) A member of the Indiana election commission, a co-director
- 35        of the election division, or an employee of the election division
- 36        under IC 3-6-4.2.
- 37        (11) County auditors, in their respective counties.
- 38        (12) Any member of the general assembly anywhere in Indiana."

39        Page 20, between lines 15 and 16, begin a new paragraph and insert:  
 40        "SECTION 41. IC 35-50-2-7, AS AMENDED BY P.L.98-2003,  
 41        SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42        UPON PASSAGE]: Sec. 7. (a) A person who commits a Class D felony  
 43        shall be imprisoned for a fixed term of one and one-half (1 1/2) years,  
 44        with not more than one and one-half (1 1/2) years added for  
 45        aggravating circumstances or not more than one (1) year subtracted for



mitigating circumstances. In addition, he may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if **any of the following apply:**

(1) The court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) The offense is domestic battery as a Class D felony under IC 35-42-2-1.3; ~~or~~

(3) The offense is possession of child pornography (IC 35-42-4-4(c)); ~~or~~

**(4) The offense is a Class D felony under IC 3-14-2.**

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection."

Page 20, between lines 27 and 28, begin a new paragraph and insert:

**"SECTION 43. [EFFECTIVE UPON PASSAGE] (a) The legislative council shall direct:**

**(1) a study of the existing criminal penalties for election law violations under IC 3 by an interim or statutory committee determined by the legislative council; and**

**(2) that the committee report its findings to the legislative council not later than November 1, 2004.**

**(b) This SECTION expires January 1, 2005."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1151 as printed January 30, 2004.)

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Representative Thompson